

(Revised 11/28/2007 per amendments approved at 11/12/2007 Town Council Meeting)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SIGNAL MOUNTAIN TOWN CODE, TITLE 14, TO CREATE A NEW CHAPTER 4 ENTITLED "HISTORIC PRESERVATION AND CONSERVATION" AND ADOPTING HISTORICAL ZONING REQUIREMENTS FOR CERTAIN BUILDINGS, LANDMARKS, AND ENABLING THE CREATION OF HISTORIC PRESERVATION DISTRICTS WITHIN THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE.

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE, that Title 14, Signal Mountain Town Code, be and hereby is amended by adding a new Chapter 4 entitled "Historic Preservation and Conservation" and adopting historical zoning requirements for certain buildings, landmarks, and enabling the creation of historical districts within the Town of Signal Mountain as follows:

CHAPTER 4

HISTORIC PRESERVATION AND CONSERVATION

Sec. 14-401. Purposes of historic zoning.

The purpose of historic zoning is to preserve and protect the historical and/or architectural value and cultural heritage of buildings, landmarks and historic districts; to regulate exterior design and arrangement, proposed to be used within the historic district to ensure compatibility; to create an aesthetic appearance which complements the historic buildings or other structures; to stabilize and improve property values; to strengthen the local economy; to promote the use of Local Historic Preservation Districts for the education, pleasure and welfare of present and future citizens; to promote neighborhood pride in and awareness of the beauty and significant accomplishments of the past; to protect and enhance the town's attraction to residents, tourists and visitors and serve as a support and stimulus to business and industry; to foster and encourage preservation, restoration and rehabilitation of structures, areas and neighborhoods, thereby preventing future urban blight and preserving existing housing stock; to prevent intrusions of newly-developed structures into the district that would be incompatible with the established character of the neighborhood or district. More specifically, this historic preservation ordinance is designed to achieve the following goals:

- A. Protect, enhance, and perpetuate resources which represent distinctive and significant elements of the Town's historical, cultural, social, economic, political, archaeological, and architectural identity;
- B. Ensure the harmonious, orderly, and efficient growth and development of the Town;
- C. Strengthen civic pride and cultural stability through neighborhood conservation;
- D. Stabilize the economy of the Town through the continued use, preservation, and revitalization of its resources;
- E. Promote the use of historic resources for the education, pleasure, and welfare of the people of the Town; and
- F. Provide a review process for the preservation and development of the Town's resources.

Sec. 14-402. Definitions.

Unless specifically defined below, words or phrases in this ordinance shall be interpreted as having the same meaning as they have in common usage.

A. *Alteration* - Any act or process that changes one or more of the exterior architectural features of the structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.

B. *Appurtenance* - A structure or a landscaping element which is accessory or auxiliary to the main structure on a property. Examples of appurtenances include, but are not limited to: fences, gazebos, signs, billboards, walls, sporting apparatus and equipment, radio and television antennae, swimming pools, bath houses, steps, sidewalks, out buildings, garages, street lights and statues.

C. *Area* - A specific geographic division of the town.

D. *Baseline Photographs* - Current photographs of all sides of each structure visible from public thoroughfares to be taken following approval of a historic district or landmark.

E. *Certificate of Appropriateness (COA)* - A certificate issued by the Historic Preservation Commission indicating its approval of plans for alteration, construction, removal, or demolition of a structure or appurtenance within a Local Historic Preservation District.

F. *Certificate of Economic Hardship (CEH)* - A certificate issued by the Historic Preservation Commission authorizing an alteration, construction, removal, or demolition of a structure within a Local Historic Preservation District. A Certificate of Economic Hardship can be issued by the Historic Preservation Commission to an applicant who shows that complying

with the standards of the Certificate of Appropriateness would present an unreasonable economic burden.

G. *Construction* - The act of adding an addition to an existing structure or the erection of a new principal or appurtenant structure on a lot or property.

H. *Demolition* - Any act or process that destroys in part or in whole a structure within a Local Historic Preservation District.

I. *Design Guidelines* - A document that delineates those changes, including alterations, demolition, and new construction, that will or will not require approval of the Historic Preservation Commission. Design Guidelines are established by the Historic Preservation Commission with input from the property owners of the proposed Historic Conservation or Historic Conservation District. Design Guidelines must be approved by two-thirds of the property owners in the proposed district before they are enforceable by the Historic Preservation Commission.

J. *Exterior Architectural Appearance* - The architectural character and general composition of the exterior of a structure.

K. *Local Historic Preservation District* - An area, designated by the Signal Mountain Council which possesses a significant concentration or continuity of sites or buildings which are significant historically, architecturally, or aesthetically, and which meets one or more of the following criteria:

1. Is associated with an event which has made a significant contribution to local, state, or national history;
2. Includes structures associated with the lives of persons significant in local, state, or national history;
3. Contains structures or groups of structures which embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
4. Has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. Is listed in the National or Tennessee Registers of Historic Places.

L. *Local Historic Landmark* - A single property or structure, designated by the Signal Mountain Town Council, which is significant historically, architecturally, or aesthetically, and which meets one or more of the following criteria:

1. Is associated with an event which has made a significant contribution to local, state, or national history;
2. Is associated with the lives of persons significant in local, state, or national history;
3. Embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
4. Has yielded or may be likely to yield archaeological information important in history or prehistory; or
5. Is listed in the National or Tennessee Registers of Historic Places.

M. *National Register of Historic Places* - A federal listing of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture. National Register listing provides protection from impairment by federally funded projects and qualifies the property for federal grants and tax advantages, but imposes no restrictions on use, alteration or disposal of such properties.

N. *Owner of Record* - The person, corporation, or other legal entity listed as owner on the records of the County Register of Deeds.

O. *Removal* - Any relocation of a structure from its site to another site.

P. *Repair* - Any change that is not construction, removal, or alteration.

Q. *Structure* - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground.

Sec. 14-403. Creation of Historic Preservation Commission.

A. *Composition and qualification of members.* There is hereby established a Historic Preservation Commission of seven (7) members, pursuant to the authority granted by T.C.A. § 13-7-403, which shall consist of a representative of a local patriotic or historical organization; an architect, if available; a member of the Signal Mountain Planning Commission, at the time of his or her appointment; and the remainder shall be from the residents of the Town of Signal Mountain or properly qualified voters.

B. *Appointment, terms and compensation.* The Historic Preservation Commissioners shall be appointed by the Mayor, subject to confirmation by the Town Council. Initial appointments to the Commission shall be made so as to provide staggered terms for membership. The appointments to membership on the Historic Preservation Commission shall be arranged so that the terms of two or three members will expire each year, and their successors shall be appointed in like manner for terms of three (3) years. Members of the Historic Preservation

Commission may be removed from office for just cause by the Town Council upon written charges and after a public hearing. Vacancies shall be filled by appointment of the Mayor with the approval of the Town Council. All members shall serve without compensation.

Conflict of interest - Any member of the Historic Preservation Commission who shall have a direct or indirect interest in any property which is the subject matter of, or affected by, a decision of said Commission shall be disqualified from participating in the discussion, decision or proceedings of the Historic Preservation Commission in connection therewith.

C. *Powers and duties:*

1. The Historic Preservation Commission shall review applications for the nomination of Local Historic Preservation Districts and Local Historic Landmarks. The review of such applications shall be in accordance with all provisions of this Ordinance. The Historic Preservation Commission shall furnish to the Town Council, in writing, its recommendations regarding the nomination of Local Historic Preservation Districts and Landmarks. The Town Council shall review the recommendations of the Historic Preservation Commission prior to the establishment of a Local Historic Preservation District or Local Historic Landmark.
2. Simultaneous, with adoption of a Local Historic Preservation District or Landmark, the Historic Preservation Commission shall adopt for each such proposed District or Landmark, a set of District Specific Design Guidelines, which it will apply in ruling upon the granting or denial of Certificates of Appropriateness as provided for in this Ordinance. Such review guidelines shall be consistent with the purposes of this Ordinance and be applicable to the construction, alteration, relocation, or demolition of any building, structure, appurtenance, or other improvement situated within the Local Historic Preservation District or which applies directly to any Local Historic Landmark. Reasonable public notice and opportunity for public comment by public hearing as specified in this Ordinance shall be required before the adoption of any such review guidelines.
3. The Historic Preservation Commission shall have the power to make the following determinations, and grant or deny COA or CEH with respect to the Local Historic Preservation Districts or Landmarks when applicable:
 - (a) Appropriateness of altering or demolishing any building or structure within the Local Historic Preservation District or Local Historic Landmark. The Commission may require exterior photographs, architectural measured drawings of the exterior, or other notations of architectural features to be used for historical documentation as a condition of any permission to demolish a building or structure. Such photographs, drawings, etc. shall be at the expense of the applicant.

- (b) Appropriateness of exterior architectural features, including signs and other exterior fixtures, of any new buildings and structures to be constructed within the Local Historic Preservation District or of a Local Historic Landmark.
 - (c) Appropriateness of front yards, side yards, rear yards, off-street parking spaces, location of entrance drives into the property, sidewalks along the public right-of-way, which might affect the character of a Local Historic Landmark or of any building, structure, or appurtenance within a Local Historic Preservation District.
 - (d) For a Local Historic Preservation District, the appropriateness of the exterior design may include the arrangement, texture, or material of the structure(s) in question, in relation to similar features of structures in the immediate surroundings and entire district. However, the Historic Preservation Commission shall not consider interior arrangement or design.
 - (e) That all work to be undertaken on a Local Historic Landmark or in the Local Historic Preservation District complies with the applicable district or landmark specific review guidelines, with primary consideration to be given to:
 - i. historical or architectural value of the present structure(s);
 - ii. the relationship of the exterior architectural features of such structure(s) to the rest of the structures, to the surrounding area, and to the character of the District;
 - iii. the general compatibility of exterior design and may include the arrangement, texture, and materials proposed to be used; and
 - iv. to any other factor, including aesthetic, which is reasonably related to the purpose of this Ordinance.
4. The Historic Preservation Commission shall cause a record of all proceedings to be available to the public in the Town Hall.
 5. The Historic Preservation Commission shall provide Reports of the status of approved Certificates of Appropriateness and Certificates of Economic Hardship to the Building Inspection Division. Such status reports shall be made available to the public at the Town Hall.

D. *Staff Support.* Staff support shall be provided to the Historic Preservation Commission by regular staff members of the Town of Signal Mountain to the extent budgeted by

the Town Council. Technical staff support shall be provided by the Southeast Tennessee Development District. Such staff shall be responsible for carrying out the directives of the commission, assisting the public in applying this Ordinance, and providing records of commission actions.

Funding for such staff support shall be derived from the operating budgets of the Town of Signal Mountain and the preservation planning activities of the Southeast Tennessee Development District.

Sec. 14-404. Creation of Local Historic Preservation Districts and landmarks.

A. *Nomination of a Local Historic Preservation District or a Local Historic Landmark.* Nomination shall be made to the Historic Preservation Commission. Nomination applications may be prepared and submitted by any of the following groups or persons:

1. Town Council.
2. Neighborhood Association.
3. Property Owner within the proposed District or of the Landmark.
4. Historic, Civic or Professional Society or Group.

B. *Application.* When applying for nomination as a Local Historic Preservation District or Local Historic Landmark, the applicant shall supply documents or other evidence showing that the property(s) or structure(s) under consideration meets one or more of the criteria defining Local Historic Preservation Districts or Local Historic Landmarks. An application fee based on the current annual costs as determined by the Historic Preservation Commission to manage historic zoning shall accompany each application.

1. All applications for Local Historic Preservation District designation shall be accompanied by the following materials, in addition to any other materials deemed significant by the applicant, or the Historic Preservation Commission:
 - (a) An application form which shall be supplied by the Historic Preservation Commission, which details the applicant's name, address, interest in or ownership of property(s), the property address(es) in question, description of property(s) and structure(s), construction date of existing structure(s).
 - (b) A map of the area proposed for nomination: the map should clearly show streets, alleys, public buildings and boundaries of the proposed district.
 - (c) Records or reports which detail the historic significance of the proposed district.

- (d) Sufficient pictorial documentation of streetscapes and buildings which establish the historic character of the area.
 - (e) A draft of the district specific design guidelines which detail criteria that applicants for Certificates of Appropriateness must meet. Such criteria for structures may include: height, scale, massing, directional expression, setbacks, platforms, roof shape and slope, rhythm of openings, entrances, porches and building spaces, materials, and textures. District specific design guidelines may address new construction, alterations and additions to the existing structures, demolition, and removal and relocation.
 - (f) A legal description of the proposed district or landmark to be included.
2. All applications for Local Historic Landmark designation shall be accompanied by the following materials, in addition to any other materials deemed significant by the applicant or the Historic Preservation Commission:
- (a) An application form, supplied by the Historic Preservation Commission, which details the applicant's name, address, interest in or ownership of the property, the property address, description of the property and structures, and the construction date of all existing structures.
 - (b) Records or reports which detail the historic significance of the proposed landmark.
 - (c) Current photographs of the landmark.
 - (d) A draft of the Landmark Specific Design Guidelines which detail criteria that applicants for Certificates of Appropriateness must meet. Landmark Specific Design Guidelines shall address additions and alterations, new construction on the landmark property, removal and relocation, and demolition.

C. *Criteria for Nomination as Local Historic Preservation District or Local Historic Landmark.* When considering whether to recommend approval or denial of nomination for a Local Historic Preservation District or Local Historic Landmark, the Historic Preservation Commission shall consider the character of the area with respect to the following criteria:

- 1. Its character, interest or value as part of the development, heritage, or cultural characteristics of the community, county, state or country;
- 2. Its location as a site of a significant local, county, state or national event;

3. Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;
4. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
5. Its identification as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or country;
6. Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant;
7. Its embodiment of design elements that make it structurally or architecturally innovative;
8. Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to, farmhouses, gas stations or other commercial structures, with a high level of integrity or architectural significance;
9. Its suitability for preservation or restoration; and/or
10. That it is listed in the National Register of Historic Places.

D. *Proceedings.*

1. Historic Preservation Districts. Upon receipt of an application for nomination as a Local Historic Preservation District, the Historic Preservation Commission shall hold a minimum of one (1) public meeting in or near the proposed district at which members of the public shall be allowed to hear the proposal, view maps and other materials, ask questions of the commissioners or applicant, and express support or opposition to the application. Such meeting shall be held in a school, church or other public or semi-public facility, in or near the proposed district. Such meeting shall be advertised in a local, town-wide newspaper.
 - (a) The Historic Preservation Commission shall initiate a continuing and thorough investigation of the archaeological, architectural, cultural, and historic significance of the Town's resources. The findings shall be collected in a cohesive format, made a matter of public record, and made available for inspection. The Historic Preservation Commission shall work toward providing complete

documentation for previously designated historic districts which would include:

- i. A survey of all property within the boundary of the district, with photographs of each building.
 - ii. A survey which would be in format consistent with the statewide inventory format of the Tennessee Historical Commission (or State Historic Preservation Office).
- (b) The Commission shall advise the Town of the designation of Historic Preservation Districts, Historic Conservation Districts, Landmarks, and Landmark sites and submit or cause to be prepared resolutions to make such designation.
- (c) A resource or resources may be nominated for designation upon motion of three (3) members of the Commission or by an organization interested in historic preservation or by an owner of the property being nominated. A nomination shall contain information as specified by the Commission. The Commission must reach a decision on whether to recommend a proposed nomination to the Town Council within six (6) months in the case of a Historic Preservation or Conservation District and two months in the case of either a Local Landmark or a Local Landmark Site. After six (6) months for a District and two (2) months for a Landmark or Landmark Site, if no action has been taken by the Commission, the nomination proceeds to the Town Planning Commission for their recommendation to the Town Council.
- (d) Before sending a recommendation to the Town Council for the designation of a preservation, conservation, or landmark district, the Commission shall take a vote of property owners in attendance within the proposed district at a public meeting regarding the creation of any proposed district pursuant to T.C.A. § 13-7-405. Each property owner shall be allowed one vote for each property owned within the proposed district, either for or against the proposed designation. The recommendation shall not be forwarded to the Town Council unless at least two-thirds of the votes received favor the designation. The Commission shall establish uniform procedures to insure fair voting requirements before any district recommendations will be made to the Town Council. Copies of records on any votes taken shall be maintained by the Commission.
- (e) The Commission shall hold a public hearing on the proposed Historic Preservation or Conservation District, Local Landmark, or Local Landmark Site. If the Commission votes to recommend to

the Town Council the designation of a proposed resource, it shall promptly forward its recommendation to the Town Council and the Town Planning Commission, in writing, together with the information listed in section 1(f), below.

- (f) The Commission's recommendations to the Town Council for designation of a Historic Preservation or Conservation District, Local Landmark, or Local Landmark Site shall be accompanied by:
 - i. A map of the Historic Preservation or Conservation District, Local Landmark, or Local Landmark Site that clearly delineates the boundaries;
 - ii. A verbal boundary description and justification;
 - iii. A written statement of significance for the proposed Historic Preservation or Conservation District, Local Landmark, or Local Landmark Site;
 - iv. The proposed Design Guidelines for the district;
 - v. Results of the vote required by Section 1(d) above;
 - vi. Draft resolution for designation of proposed historic district or landmark.
- (g) The Town Council shall also conduct a public hearing, after notice, to discuss the proposed designation and boundaries thereof. A notice of the hearing shall be advertised in the newspaper generally used by the Town for such notices. If a newspaper is not published in the Town, then the notice shall be advertised in a newspaper published in the county.
- (h) Within sixty (60) calendar days after the public hearing held in connection herewith, the Town Council shall consider the adoption of the ordinance with such modifications as may be necessary.
- (i) Furthermore, the Commission shall notify, as soon as is reasonably possible, the appropriate state, county, and municipal agencies of the official designation of all Historic Preservation Districts, Historic Conservation Districts, Landmarks, and Landmark Sites. An updated list and map shall be maintained by such agencies and made available to the public.
- (j) Upon receipt of a recommendation for nomination as a Local Historic Preservation District from the Historic Preservation

Commission, the Town Council shall conduct a hearing on the recommendation of the Commission using the same administrative procedure with which they decide zoning cases, except that there shall be no referral to the Signal Mountain Planning Commission, during which they shall either grant or deny status as a Local Historic Preservation District and adopt an ordinance defining the area of any proposed Local Historic Preservation District in the manner required by law.

2. Historic Landmarks. Upon receipt of an application for nomination as a Local Historic Landmark, the Historic Preservation Commission shall hold a minimum of one (1) public meeting in the Signal Mountain Town Hall or any Annex thereto at which members of the public shall be allowed to hear the proposal, view maps and other materials, ask questions of the commissioners or applicant, and express support or opposition to the application. Such meeting shall be advertised prior to the meeting through a local, city-wide newspaper.

Following the landmark meeting(s), a final meeting shall be held at Town Hall or any Annex thereto during which the Historic Preservation Commission shall make a written recommendation that the Town Council accept or deny the application for nomination as a Local Historic Landmark. Such meeting shall be advertised prior to the meeting through a local, city-wide newspaper.

The written recommendation shall be accompanied by a report to the Town Council containing the following information:

- (a) Explanation of the significance or lack of significance of the nominated Local Historic Landmark as it relates to the criteria for designation;
- (b) Explanation of the integrity or lack of integrity of the nominated landmark;
- (c) In the case of a nominated landmark found to meet the criteria for designation;
 - i. The types of significant exterior architectural features of the landmark that should be protected.
 - ii. The types of alterations that should be reviewed for appropriateness.

- iii. Proposed design guidelines for reviewing applications for Certificates of Appropriateness.
- (d) A map showing the location of the nominated Local Historic Landmark.

All recommendations and reports of the Historic Preservation Commission shall be available to the public.

Sec. 14-405. Certificates of appropriateness.

A. *Reviewable Actions for Certificates of Appropriateness.* All exterior construction, alteration, rehabilitation, relocation, or demolition of any building, structure, or other improvement to real estate situated within a Local Historic Preservation District shall require a Certificate of Appropriateness.

B. *Routine Maintenance.* Routine maintenance shall not require a Certificate of Appropriateness.

C. *Applications for Certificates of Appropriateness.* Application for a Certificate of Appropriateness shall be made on a form prepared by the Historic Preservation Commission and available at the Town Hall. Any application for a demolition permit or a building permit within a Local Historic Preservation District or a Local Historic Landmark shall be forwarded by the Building Inspector to the Historic Preservation Commission within seven (7) days following receipt of the application. The Building Inspector shall not issue the building or demolition permit until a Certificate of Appropriateness or a Certificate of Economic Hardship has been issued by the Historic Preservation Commission.

D. *Application Requirements.* Applicants for Certificates of Appropriateness must submit the following documents to the Historic Preservation Commission Staff, along with the application form and a fee based on the current annual cost as determined by the Historic Preservation Commission to manage historic zoning. All maps, plats, drawings and plans must be signed by the architect or draftsman. Draftsmen need not be licensed, and may be the applicant or the applicant's agent.

1. Alterations or Additions to Existing Structures.

- (a) Current photographs of all sides of the structure(s) under consideration. All photographs shall be labeled to indicate the date taken, location of structure, and direction of the view.
- (b) Current color photographs of all adjoining or neighboring structures. All photographs shall be labeled to indicate the date taken and direction of the view.
- (c) A site plan or map of the structure(s) under consideration clearly showing the building's location and relation to neighboring

structures, the building's and proposed building's setback(s), public or private streets or drives, and access and utility rights-of-way.

- (d) Drawings which clearly show the existing structure(s) and the proposed addition(s) and alteration(s). Such drawings shall include plans and elevations or exterior perspectives drawn to a scale sufficient to show the proposed height; scale; orientation, space, and site coverage; facade proportions and rhythm; size, shape, and proportions of entrances and porch projections; architectural details; roof shape and slope; directional expression; landscaping, walls, and fences; and general visual effect.

2. New Structures.

- (a) Current color photographs of all sides of the property(s) under consideration. All photographs shall be labeled to indicate the date taken, location of structure, and the direction of the view.
- (b) Current color photographs of all adjoining or neighboring structures. All photographs shall be labeled to indicate the date taken and direction of the view.
- (c) A site plan of the structure under consideration clearly showing the building's location and relation to neighboring structures, the proposed setback, public or private streets or drives, and access and utility rights-of-way.
- (d) Drawings which clearly show all existing and proposed structure(s). Such drawings shall include plans and elevations or exterior perspectives drawn to a scale sufficient to show the proposed height; scale; orientation, spacing, and site coverage; facade proportions and rhythm size, shape, and proportions of entrances and porch projections; architectural details; roof shape and slope; directional expression; landscaping, walls, and fences; and general visual effect.

3. Removal or Relocation.

- (a) Current color photographs of all sides of the structure(s) under consideration. All photographs shall be labeled to indicate the date taken and direction of the view.

- (b) Current color photographs of all adjoining or neighboring structures. All photographs shall be labeled to indicate the date taken, location of structure, and direction of the view.

- (c) Current color photographs of the location to which the structure is being moved and all adjoining or neighboring structures, if within the boundaries of a Local Historic Preservation District of the Town of Signal Mountain. All photographs shall be labeled to indicate the date taken, location of structure and direction of the view.

- (d) A site plan or map of the new location of the structure under consideration clearly showing the building's location and relation to neighboring structures, the proposed setback, public or private streets or drives, and access and utility rights-of-way.

4. Demolition.

- (a) Current color photographs of all sides of the structure(s) under consideration. All photographs shall be labeled to indicate the date taken, location of structure, and direction of the view.

- (b) Current color photographs of all adjoining or neighboring structures. All photographs shall be labeled to indicate the date taken, location of structure, and direction of the view.

- (c) Proof that the applicant has advertised, in a local paper of wide-spread distribution, the sale of the structure(s) for removal or the sale of the property and structures combined. Such advertisement shall have been circulated not more than one year, nor less than 15 days prior to the hearing date. Such advertisement, and payment for same, shall be the responsibility of the applicant. This provision is intended to discourage thoughtless and needless destruction of historical buildings by providing interested buyers and/or civic groups with at least the opportunity to negotiate with the owner before they go through with their demolition plans. The sale of the property shall be entirely at the discretion of the owner.

D. *Hearing and Determination.*

1. Administrative Review. Staff approval may be provided for work that meets the design guidelines and is not one of the following: New construction of primary structures, outbuildings, or garages; additions, demolition; parking lots.
2. Historic Preservation Commission Review. The Historic Preservation Commission must review all applications for new construction of primary

structures, outbuildings, garages, additions; demolition and parking lots as well as any applications that the staff refers to the Historic Preservation Commission.

E. *Standards for Review.* In considering an application for a Certificate of Appropriateness, the Historic Preservation Commission shall be guided by the following general standards in addition to any district specific design guidelines in this ordinance.

1. The distinguishable original qualities or character of a building, structure or site shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided when possible.
2. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
3. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
4. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure or site shall be treated with sensitivity.
5. Deteriorated architectural features shall be repaired rather than replaced, whenever possible.
6. The surface cleaning of structures shall be undertaken with the gentlest means possible.
7. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.
8. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

F. *Approval or Denial.* Following proper review of sufficient data, including a public hearing, the Historic Preservation Commission shall approve or deny the Certificate of Appropriateness within thirty (30) days. The Certificate of Appropriateness may be issued with modification by the Historic Preservation Commission. Written notice of the approval or denial of the application for a Certificate of Appropriateness shall be provided to the applicant and to the Building Inspection Division if a building or demolition permit is needed. The Historic Preservation Commission shall state in the written notice any required modifications to the

application, and conditions to which the certificate is subject, or reasons for the denial of the application.

The applicant may resubmit an amended application for a Certificate of Appropriateness which takes into consideration the recommendations of the Historic Preservation Commission. The applicant may also apply for a Certificate of Economic Hardship if they feel the decision of the Historic Preservation Commission has denied them a reasonable economic return or use of the property.

G. *Expiration of a Certificate of Appropriateness.* A Certificate of Appropriateness shall expire twelve (12) months after its issuance EXCEPT THAT a Certificate of Appropriateness shall expire if work has not begun within six (6) months of its issuance. When a Certificate of Appropriateness has expired, an applicant may seek a new certificate.

H. *Resubmitting of Applications.* Twelve (12) months after denial of an application for a Certificate of Appropriateness, the application may be resubmitted without change. A changed application may be resubmitted at any time.

Sec. 14-406. Certificate of economic hardship.

If a Certificate of Appropriateness has been denied to a property owner within a Local Historic Preservation District or of a Local Historic Landmark, then the property owner has the right to present evidence to the Historic Preservation Commission that such denial has deprived the owner of reasonable use or economic return, of the property.

A. *Application for Certificate of Economic Hardship.* Application for a Certificate of Economic Hardship shall be made on a form available from the office of the Planning Commission. The following information shall be submitted with an application for Certificate of Economic Hardship:

1. A statement detailing the condition(s) leading to economic hardship. The application should discuss the circumstances under which denial of a Certificate of Appropriateness has led or will lead to deprivation of reasonable use, or economic return of the property. The standards which the Historic Preservation Commission shall go by to determine economic hardship include the following:
 - (a) That by reason of the exceptional deterioration of the structures or by reason of the particular economics of the proposed project, the strict application of the district specific design guidelines would result in peculiar and practical difficulties or undue economic hardships upon the owner to develop the property in accordance with the district specific design guidelines.

- (b) That the relief of the peculiar hardships would not establish substantial detriment to the public good or substantially impair the intent and purpose of the Historic Zoning Ordinance.
 - (c) That the peculiar hardship would apply to the particular land or building regardless of the owner.
 - (d) That the peculiar hardship is not created as the result of an act upon the part of the applicant.
2. Estimate of the cost of the proposed construction, alteration, demolition; removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Historic Preservation Commission for modifications necessary for the issuance of a Certificate of Appropriateness.
 3. Estimated market value from a licensed real estate appraiser or the County Tax Assessor of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Historic Preservation Commission; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation of historic structures as to the structural soundness of the structure and the economic feasibility of rehabilitation or reuse of the existing structure on the property.
 5. If the property is income-producing, the annual gross income from the property for the previous two (2) years; itemized operating and maintenance expenses for the previous two (2) years; and depreciation deduction and annual cash flow before and after debt service, if any, during the same period.
 6. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 7. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two (2) years.
 8. Real estate taxes for the previous two (2) years.
 9. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporations, limited partnership, joint venture, or other.

B. *Hearing and Determination.*

1. The Historic Preservation Commission shall review the application for Certificate of Economic Hardship and schedule a public hearing in the same manner it would for a Certificate of Appropriateness. Any person may testify at the hearing concerning the economic hardship of the property. Furthermore, the Historic Preservation Commission may solicit expert testimony or require that the applicant or the applicant's agent make additional submissions concerning the reasonable use or economic return of the property.
2. Following proper review by the Historic Preservation Commission and prior to the close of the public hearing, the Historic Preservation Commission shall issue or deny the Certificate of Economic Hardship. Written notice of the approval or denial of the application for a Certificate of Economic Hardship shall be provided to the applicant and to the Building Inspection Division if a building permit is needed. The Historic Preservation Commission shall state in written notice, all specific guidelines, requirements, and conditions to which the certificate is subject, or reasons for the denial of the application. The applicant may resubmit an amended application or reapply for a Certificate of Economic Hardship that takes into consideration the recommendations of the Historic Preservation Commission.
3. Economic Hardship. No decision of the Commission shall cause undue economic hardship. At the applicant's request, a hearing on economic hardship shall be conducted after a Certificate of Appropriateness has been denied.

Sec. 14-407. Appeals.

Anyone who may be aggrieved by any final order or judgment of the Historic Preservation Commission may have such order or judgment reviewed by the courts by the procedure of statutory certiorari, as provided in T.C.A. §§ 27-8-101, *et seq.* or common law certiorari.

Sec. 14-408. Validity of certificates.

In the case where a Certificate of Appropriateness or a Certificate of Economic Hardship is issued and the Town Building Inspector denies the building permit, the certificate shall be invalid. If any changes are made to the plans or any related materials of the application, the applicant must reapply for a certificate before work is begun.

Sec. 14-409. Enforcement, violations and penalties.

The Town Building Inspector is hereby designated and authorized to enforce this ordinance. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be

fined not less than Twenty Dollars (\$20.00) nor more than Fifty Dollars (\$50.00) for each offense. Each day a violation exists shall constitute a separate offense.

The Historic Preservation Commission may establish fees required with application for Nomination of Local Historic Preservation District, Certificates of Appropriateness and Certificates of Economic Hardship to cover administrative costs.

Sec. 14-410. Validity.

Should any section, subsection, phrase, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Sec. 14-411. Moratorium for proposed historic preservation landmark or historic districts.

There shall be a moratorium on the granting of permits to demolish, construct, reconstruct, renovate, grade, or in any way alter any structures or land recommended for designation as a Local Historic Preservation District or landmark pursuant to this article. The moratorium shall begin with the passing of a resolution by the Historic Preservation Commission recommending that the Town Council accept the application for nomination as a Local Historic Preservation District or Local Historic Landmark, and the moratorium shall end when the Town Council either grants or denies status as a Local Historic Preservation District or Local Historic Landmark.

Sec. 14-412. Right of entry upon land.

The Historic Preservation Commission, its members and employees, in the performance of its work, may enter with prior notice to the property owner upon any land within its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance, but there shall be no right of entry into any building without the consent of the owner.

Sec. 14-413. Public Safety Exclusion.

None of the provisions of this ordinance shall be construed to prevent any action of construction, alteration, or demolition necessary to correct or abate the unsafe or dangerous condition of any resource, or part thereof, where such condition has been declared unsafe or dangerous by the Town Building Inspector or the fire department and where the proposed actions have been declared necessary by such authorities to correct the said condition provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event that any resource designated as a Local Landmark, Local Landmark Site, or located within a designated Historic Preservation or Conservation District shall be damaged by fire or other calamity to such an extent that it cannot be repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws, provided that:

- A. The Town Building Inspector concurs with the property owner that the resource cannot be repaired and restored and so notifies the Commission in writing.
- B. The Commission, if in doubt after receiving such notification from the Town Building Inspector, shall be allowed time to seek outside professional expertise from the State Historic Preservation Office and/or an independent structural engineer before issuing a Certificate of Appropriateness for the demolition. The Commission may indicate in writing by letter to the Town Building Inspector that it will require a time period of up to thirty (30) days for this purpose and, upon such notification to the Town Building Inspector, this section shall be suspended until the expiration of such a delay period.

SECTION 2. That this Ordinance shall become effective immediately after its Final passage as provided by law.

Passed First Reading _____, 2007.

Passed Second Reading _____, 2007.

PAUL M. HENDRICKS, Mayor

DIANA CAMPBELL, Town Recorder

PAN/kac